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## LAW CHANGES THAT IMPACT EMPLOYERS

### Benefit Charges, Claimant Work Search Requirements and Suitable Work Considerations, Wage Garnishment

#### Benefit Charges

RSA 282-A:12 Most Recent Employer. "Most recent employer" means the last non-reimbursing employer prior to the effective date of the initial claim with whom an individual's work record exceeded 12 consecutive weeks of employment while such individual received no benefits under RSA 282-A provided that the employer provided employment, or from which wages in employment were paid or are payable, between the beginning of the base period, whether primary or alternate, and the benefit year ending of the claim year.

The primary change is the increase from 4 consecutive weeks to 12 consecutive weeks. A taxable employer will become charged for benefits paid if the claimant has worked for them for more than 12 consecutive weeks and left employment under non-disqualifying circumstances.

If there is no such employer between the beginning of the base period and the effective date of the claim, the NH Trust Fund will be charged for any benefits paid.

This change took effect with any new or additional claim filed where the effective date was 10/7/2012 or after. Frequently Asked Questions document can be found at [www.nhes.nh.gov](http://www.nhes.nh.gov)

#### Claimant Work Search Requirements and Suitable Work Considerations

Brief summary below. The complete text of these law changes can be found in HB 1366 at <http://www.gencourt.state.nh.us/legislation/2012/HB1366.html> or RSA 282-A Unemployment Compensation Law at <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XXIII-282-A.htm>

RSA 282-A:31, I(d) has been changed to add that:

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- (1) if permanent work which the claimant is qualified to do is not immediately available within their labor market, they must also be available for and seeking temporary, full-time or part-time work
- (2) an individual temporarily out of work that reasonably expects to be recalled by their employer in 4 to 26 weeks to permanent full-time or part-time work, must instead be available for and seeking temporary, full-time or part-time work for which they are qualified.

RSA 282-A:32, I(d) has been changed to provide separate suitable work expectations depending on the individual's circumstances.

- (1) If work is determined to be immediately available, the suitable work criteria remain substantially the same. Housekeeping changes were made to change "his" to "individual's" and separate the distance and rate of pay criteria.
- (2) If work is determined not to be immediately available, the suitable work criteria have been substantially duplicated from (1). An important and new criterion has been added.  
(E) "That the work, part-time or full-time, pays minimum wage or an hourly rate which when multiplied times 40 is equal to or greater than 150 percent of the individual's weekly benefit, whichever is greater."
- (3) If work is refused that is deemed suitable under this section, the denial shall be for the same period that the work would have lasted. AKA: 2-week temp job offered that is deemed suitable work results in a 2-week denial.

These changes took effect with the week ending 10/6/2012. Frequently Asked Questions document can be found at [www.nhes.nh.gov](http://www.nhes.nh.gov)

## **Wage Garnishment**

Brief summary below. The complete text of these law changes can be found in HB 1379 at <http://www.gencourt.state.nh.us/legislation/2012/HB1579.html> or RSA 282-A Unemployment Compensation Law at <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XXIII-282-A.htm>

A new section of the law has been added to allow for wage garnishment. RSA 282-A:152-a

This section provides specific definitions and processes that must be followed before the department can garnish an employee's wages. The individual will receive multiple notices offering to make alternative arrangements to repay the department for an overpayment of benefits they are responsible for.

If the individual does not respond or make satisfactory arrangements, a Notice of Garnishment will be served upon the debtor and employer simultaneously. The Notice of Garnishment will include instructions and specifics as to the amount to be garnished each week and the total amount subject to garnishment.

Child support garnishment takes priority over Overpayment garnishment and the total, including an optional \$1 fee imposed by the employer, "may not exceed 25% of the individual debtor's weekly disposable earnings, or the amount by which the individual debtor's weekly disposable earnings exceed 50 times the minimum hourly wage as established by the Fair Labor Standards Act, whichever is less".

The employer is required to comply with a Notice of Garnishment and "shall be liable for an administrative fine of \$100 per pay period for each individual debtor with respect to whom the employer has willfully failed to comply".

The employer "shall be guilty of a misdemeanor and subject to a fine of up to \$1,000" for discharging, refusing to employ or taking any disciplinary action against an individual debtor because of the garnishment procedures.

Garnishment has been an available option for collection of unpaid debt since 8/10/2012. The Department is currently establishing the business processes to utilize this option.